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Dated: September 13, 2005 Signature: 
(Arnold H. Krumholz)

Docket No.: SPINE 3.0-2144 DIV II
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Middleton

Art Unit: 3738

Application No.: 10/672,327

Confirmation No.: 8423

Filed: September 26, 2003

Examiner: B. Snow

For: ARTIFICIAL INTERVERTEBRAL DISC

REQUEST FOR REINSTATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Attorneys for the above-identified applicant received a Notice of Abandonment mailed August 23, 2005 for failure to timely file a proper reply to the Office letter mailed on October 13, 2004. However, Request for Continued Examination and an Extension Petition were transmitted to the U.S. Patent and Trademark Office on January 14, 2005.

Attached hereto are copies of the Request for Continued Examination and Extension Petition along with a copy of the return postcard stamped received on "January 18, 2005" by the U.S. Patent and Trademark Office.

It is therefore believed that evidence has been submitted to establish that a reply to the Office letter mailed on October 13, 2004 was filed and is it therefore respectfully requested that prosecution on the above-identified application be reopened.

Application No.: 10/672,327

Docket No.: SPINE 3.0-2144 DIV II

If there are any fees due in connection with this communication, please charge same to our Deposit Account No. 12-1095.

Dated: September 13, 2005

Respectfully submitted,

By



Arnold H. Krumholz

Registration No.: 25,428

LERNER, DAVID, LITTENBERG,

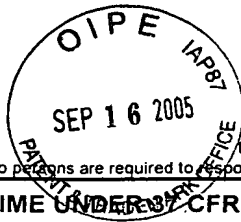
KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicant

**PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)****FY 2005**

(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)

Docket Number (Optional)

SPINE 3.0-2144 DIV II

Application Number 10/672,327-Conf. #8423

Filed September 26, 2003

For **ARTIFICIAL INTERVERTEBRAL DISC**

Art Unit 3738

Examiner B. E. Snow

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

	<u>Fee</u>	<u>Small Entity Fee</u>	
<input checked="" type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ 120.00
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$450	\$225	\$
<input type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1020	\$510	\$
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1590	\$795	\$
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2160	\$1080	\$

☐ Applicant claims small entity status. See 37 CFR 1.27.☐ A check in the amount of the fee is enclosed.☐ Payment by credit card. Form PTO-2038 is attached.☒ The Director has already been authorized to charge fees in this application to a Deposit Account.☒ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 12-1095 I have enclosed a duplicate copy of this sheet.I am the ☐ applicant/inventor.☐ assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).☒ attorney or agent of record. Registration Number 28,588☐ attorney or agent under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

Raymond W. Augustin

Typed or printed name

January 14, 2005

Date

(908) 518-6318

Telephone Number

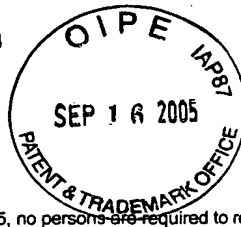
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of 1 forms are submitted.

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Dated: January 14, 2005

Signature: (Raymond W. Augustin)



PTO/SB/30 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Request For Continued Examination (RCE) Transmittal Address to: MS RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	10/672,327-Conf. #8423
	Filing Date	September 26, 2003
	First Named Inventor	Lance Middleton
	Art Unit	3738
	Examiner Name	B. E. Snow
	Attorney Docket Number	SPINE 3.0-2144 DIV II

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.

Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☒ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii. ☒ Other Amendment filed on December 20, 2004

b. ☐ Enclosed

i. ☐ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/Declaration(s)

iv. ☐ Other _____

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other _____

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 12-1095. I have enclosed a duplicate copy of this sheet.

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other _____

b. ☐ Check in the amount of \$ _____ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
Signature		Date	January 14, 2005
Name (Print/Type)	Raymond W. Augustin	Registration No.	28,588

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: January 14, 2005

Signature: (Raymond W. Augustin)



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PLEASE ACKNOWLEDGE RECEIPT BY RETURNING THIS CARD

Via: First Class Mail

Atty Docket No.: SPINE 3.0-2144 DIV-II.

Due Date: January 13, 2005

Title: ARTIFICIAL INTERVERTEBRAL DISC

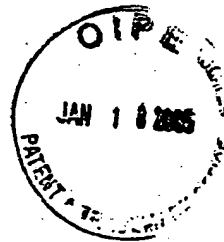
Application No.: 10/672,327-Conf. #8423

Documents Filed:

Request for Continued Examination Transmittal (1 page)

Petition for Extension of Time (1 months)

RETURN POSTCARD



Sender's Initials: RWAKj

Mailing Date: January 14, 2005